IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 13TH JULY 2007 / 22ND ASHADHA 1929

Bail Appl..No. 4237 of 2007()

[CRIME NO.187/2007 OF KODUVALLY POLICE STATION]

PETITIONER/ACCUSED:

K.P.SADASIVAN, S/O.KRISHNAN NAIR,
PRESIDENT OMASSERI GRAMA PANCHAYATH,
KOZHIKODE.

BY ADV. SRI.P.V.KUNHIKRISHNAN

RESPONDENTS: COMPLAINANT AND STATE:

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1. SUB INSPECTOR OF POLICE,
KODUVALLY POLICE STATION, KOZHIKODE.

2. STATE OF KERALA REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 13/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.4237 of 2007

Dated this the 13th day of July 2007

O R D E R

Application for anticipatory bail. The petitioner is the President of a Gramma Panchayat. The Village Officer of the local village allegedly lodged a complaint before the police that the petitioner had assaulted him and had caused obstructions for the due discharge of his official duty.

2. The petitioner had allegedly gone to the Panchayat office on receiving certain complaints that the Village Officer was not fairly and correctly issuing income certificates to various applicants in the locality. In the course of discussions, the President is alleged to have got irritated and assaulted the victim/Village Officer. Crime has been registered. Investigation is in progress.

3. The learned counsel for the petitioner submits that the allegations are totally false. The de facto complainant apprehends that the petitioner may initiate action against him for not having issued income certificates honestly and properly and to forestall any such complaint, such a false complaint has

been filed by the de facto complainant. The petitioner is a respectable person of the locality. He is a local Gramma Panchayat President. In these circumstances, directions under Section 438 Cr.P.C may be issued in favour of the petitioner, it is submitted.

4. The social and political standing of the petitioner notwithstanding, if the allegations are false, any court is bound to view such allegations with seriousness. The short and crucial question is whether at the moment, it can be assumed that the allegations are made against the petitioner without bona fides or with oblique and mala fide motives.

5. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that the allegations being serious and there being no reason, at the moment to suspect the allegations raised, the extraordinary equitable discretion under Section 438 Cr.P.C may not be invoked in favour of the petitioner.

6. I shall, at this early stage of investigation, carefully avoid any detailed discussion on merits about the acceptability of the allegations or the credibility of the data collected. Suffice it to say that at the moment and with the available inputs, I find no

reason to assume that the allegations are made falsely and with vexatious intent. I need only say that I find no reason to invoke the extraordinary equitable discretion under Section 438 Cr.P.C. This is a fit case where the petitioner must appear before the learned Magistrate having jurisdiction or the investigating officer and seek regular bail in the normal and ordinary course. I find no reason to assume that the learned Magistrate would not consider the petitioner's application for regular bail on merits and expeditiously.

7. In the result, this petition is dismissed. Needless to say, if the petitioner surrenders before the investigating officer or the learned Magistrate having jurisdiction and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007